



City of Rockville, Maryland

Parameters of Stormwater Funding Legislation

Background

Maryland cities and counties will soon face sharp increases in stormwater related expenses as a result of the federal and state Chesapeake Bay restoration efforts. The purpose of this document is to provide a framework for stakeholder discussion about what elements should be included, or excluded, in stormwater funding legislation. The City of Rockville believes it is essential for Maryland counties and municipalities to have a predictable and equitable funding source to implement the stringent requirements of National Pollution Discharge Elimination Permits (NPDES Permits) and the Chesapeake Bay Total Maximum Daily Load (TMDL). A dedicated revenue source, like that outlined in this document, is key to any success in local compliance with new or increased stormwater activities aimed at revitalizing the Bay.

The City of Rockville hopes to share this document with multiple stakeholders and come to consensus regarding elements that are:

- Essential to stakeholders;
- A bonus to some stakeholders - i.e., while affected jurisdictions support these concepts, they are not essential.
- Deal breakers – if these elements were or were not included, some stakeholders could not support the proposed legislation.

The goal of this review process is to present Maryland General Assembly members with a detailed outline of legislative elements that multiple stakeholders will support if incorporated into a stormwater funding bill. This process will also identify any elements that stakeholders cannot come to consensus on. These areas of tension will be highlighted

so that legislators have detailed information as they make decisions regarding how to draft the final bill.

Legislative Considerations

1. What Jurisdictions Will Be Affected?

- a. Mandatory for jurisdictions with delegated stormwater authority. (NPDES Permit holders).
- b. Smaller jurisdictions (non permitted entities) should be given permissive authority to implement charges but not required to enact such changes.

2. What Will NPDES Permit Holding Jurisdictions Be Required to Do?

- a. NPDES jurisdictions must adopt a system of annual charges to fund stormwater management programs and the requirements created by NPDES Permits and TMDLs (local and bay-wide).
- b. Any proposed legislation must provide flexibility for an NPDES permit holder to authorize the county in which it is located to implement all, or elements of, the municipality's NPDES requirements.

3. What Form Should the Charges Take?

- a. There must be sufficient flexibility for jurisdictions to tailor their system of charges. The legislation should not prescribe the approach used by the jurisdiction.
- b. The legislation should not prescribe rate-setting methods.
- c. It should not obviate existing, successful programs.

4. Who Will Have to Pay These Charges?

- a. The law should provide maximum authority for local governments to charge all property owners, including other governments and tax-exempt institutions. However, as noted above, local programs should be left flexibility to design their system of charges and choose which properties to charge.

- b. Federal, State, and local highways and roads should be exempt from paying the stormwater charge since these are used for common welfare rather than an individual or organization's benefit.
- c. Properties should be protected from paying more than one jurisdiction's stormwater charge.

5. What Activities Can These Charges Pay For?

- a. Watershed assessment and planning;
- b. Planning, design, land acquisition, construction of public stormwater management systems and structures;
- c. Retrofitting developed areas for pollution control;
- d. Water quality monitoring;
- e. Reviewing stormwater management plans;
- f. Inspection and enforcement activities;
- g. Operation and maintenance of facilities;
- h. Stream restoration;
- i. Increasing the tree canopy;
- j. Outreach and education;
- k. Illicit discharge detection and elimination;
- l. Any activity performed in support of, or required by an NPDES stormwater Permit;
- m. Any activity needed to implement a TMDL; and
- n. Costs of administering the system of charges.

6. System of Credits

- a. Implementing jurisdictions may offer a system of credits. Implementing jurisdictions should be given flexibility to determine the parameters of their credit program.

7. Stormwater Management Utilities

- a. While jurisdictions may implement any system of charges they wish, jurisdictions that choose to implement a stormwater utility fee, should include the following elements into their definition of a stormwater utility fee:

- i. A fee is charged to all properties with impervious surface, including government and tax-exempt properties.
 - ii. The amount of the fee is measured using the actual or estimated amount of impervious surface.
 - iii. The jurisdiction offers a system of credits.
 - iv. The jurisdiction establishes a dedicated enterprise fund where fees are deposited.
 - v. The monies raised are only used for the stormwater activities discussed in section 5 of this document.
- b. The legislation should contain a provision stating that Stormwater Utility Fees shall be construed as user fees and not subject to challenges of sovereign immunity and tax-exemption.

Questions and Comments

Questions and comments may be directed to:

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